

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

WILLIAM M. BYRD,

Plaintiff,

v.

AVENTIS PHARMACEUTICALS, INC.
and DEBRA EDMUNDS,

Defendants.

Civil Action No. 04-11032-DPW

**AFFIDAVIT OF JOAN ACKERSTEIN IN SUPPORT OF DEFENDANTS' MOTION TO
AMEND DEFENDANTS' ANSWERS TO THE COMPLAINT AND JURY DEMAND**

Joan Ackerstein, on oath, deposes and says as follows:

1. I am a partner of Jackson Lewis LLP and I am involved in the defense of the above action. I have an office at 75 Park Plaza, Boston, Massachusetts.
2. I am familiar with the complaint filed by Plaintiff, William Byrd, in this action.
3. I took the deposition of Plaintiff on October 18, 2004.
4. At his deposition, Plaintiff testified that in September 2000, when he received a mid-year performance evaluation, he believed he was being discriminated against on the basis of his race and his age.¹
5. At his deposition, Plaintiff further testified that by the time he received a final written warning in September 2001, he believed that a written warning he received in November 2000 was retaliation for his having raised concerns in September 2000.

¹ The transcript for Plaintiff's deposition taken on October 18, 2004 has not yet been received.

6. On or about August 26, 2004, Plaintiff served Defendants with answers to interrogatories. Attached as Exhibit A is a photocopy of Interrogatory Number 4 and Plaintiff's response to Interrogatory Number 4.

7. On October 13, 2004, in response to a subpoena served by Defendants, Defendants received records from Dictaphone regarding Plaintiff's Dictaphone employment. Included with such records were Dictaphone termination forms regarding Plaintiff. Attached as Exhibit B is a photocopy of the termination forms received from Dictaphone.

8. On or about September 23, 2004, Plaintiff produced documents responsive to Defendants' requests for production of documents. With such documents Plaintiff produced a resume for himself that states that he received a Bachelor of Science from New Mexico State University. Attached as Exhibit C is photocopy of the resume produced by Plaintiff.

10. At Plaintiff's October 18 deposition, Plaintiff testified that while he did complete some coursework at New Mexico State University, he never graduated or received a degree from New Mexico State University.

12. On or about October 19, 2004 I conferred with Plaintiff's counsel regarding this motion. Plaintiff would not assent to this motion.

Signed under the pains and penalties of perjury this 1st day of November, 2004.

/s/ Joan Ackerstein

CERTIFICATE OF SERVICE

I hereby certify that, on this 1st day of November, 2004, I caused a true and accurate copy of the above document to be served upon Plaintiff's counsel, John Koslowsky, Esq., 424 Adams Street, Milton, Massachusetts 02186, by first-class mail, postage prepaid.

/s/ Joan Ackerstein
Jackson Lewis LLP

